

RESOLUTION NO. R-2017- 0130

RESOLUTION APPROVING ZONING APPLICATION ZV/Z/CA-2015-02360
(CONTROL NO. 1973-00243)
a Class A Conditional Use
APPLICATION OF Global Force Investment Consulting LLC - Marta Gonzales
BY Urban Design Kilday Studios, AGENT
(Cleary Station)

WHEREAS, the Board of County Commissioners, as the governing body of Palm Beach County, Florida, pursuant to the authority vested in Chapter 163 and Chapter 125, Florida Statutes, is authorized and empowered to consider applications relating to zoning;

WHEREAS, the notice and public hearing requirements pursuant to Article 2 (Development Review Procedures) of the Palm Beach County Unified Land Development Code, Ordinance 2003-067 as amended (ULDC), have been satisfied;

WHEREAS, Zoning Application ZV/Z/CA-2015-02360 was presented to the Board of County Commissioners at a public hearing conducted on January 26, 2017;

WHEREAS, the Board of County Commissioners has considered the evidence and testimony presented by the Applicant and other interested parties, the recommendations of the various County Review Agencies, and the recommendation of the Zoning Commission;

WHEREAS, the Board of County Commissioners pursuant to Article 2 (Development Review Procedures) of the ULDC is authorized and empowered to consider, approve, approve with conditions or deny the request;

WHEREAS, the Board of County Commissioners hereby incorporates by reference the Findings in the staff report addressing the Standards contained in Article 2.B (Public Hearing Process) for a Class A Conditional Use;

WHEREAS, this approval is subject to Article 2.E (Monitoring), of the ULDC and other provisions requiring that development commence in a timely manner;

WHEREAS, the issuance of this Development Permit does not in any way create any rights on the part of the Applicant and/or Property Owner to obtain a permit from a state or federal agency and does not create any liability on the part of the County for issuance of the permit if the Applicant fails to obtain requisite approvals or fulfill the obligations imposed by a state or federal agency or undertakes actions that result in a violation of state or federal law;

WHEREAS, the Palm Beach County Survey Section may administratively correct any scrivener's errors that will not significantly impact the overall boundary of the adopted legal description; and,

WHEREAS, Article 2.A.1.K.3.b (Action by BCC) of the ULDC requires that the action of the Board of County Commissioners be adopted by resolution.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF PALM BEACH COUNTY, FLORIDA, that Zoning Application ZV/Z/CA-2015-02360, the Application of Global Force Investment Consulting LLC - Marta Gonzales, by Urban Design Kilday Studios, Agent, for a Class A Conditional Use to allow a Convenience Store with Gas Sales, on a parcel of land generally described as shown on the legal description in EXHIBIT A, attached hereto and made a part hereof, and generally located as shown on a vicinity sketch as indicated in EXHIBIT B, attached hereto and made a part hereof, was approved on January 26, 2017, subject to the Conditions of Approval described in EXHIBIT C, attached hereto and made a part

hereof.

Commissioner Abrams moved for the approval of the Resolution.

The motion was seconded by Commissioner Kerner and, upon being put to a vote, the vote was as follows:

Commissioner Paulette Burdick, Mayor	-	Nay
Commissioner Melissa McKinlay, Vice Mayor	-	Absent
Commissioner Hal R. Valeche	-	Aye
Commissioner Dave Kerner	-	Aye
Commissioner Steven L. Abrams	-	Aye
Commissioner Mary Lou Berger	-	Aye
Commissioner Mack Bernard	-	Aye

The Mayor thereupon declared that the resolution was duly passed and adopted on January 26, 2017.

Filed with the Clerk of the Board of County Commissioners on February 1, 2017.

This resolution is effective when filed with the Clerk of the Board of County Commissioners

This resolution shall not become effective unless or until the effective date of Comprehensive Plan Amendment No. LGA 2016-006.

APPROVED AS TO FORM
AND LEGAL SUFFICIENCY

PALM BEACH COUNTY, FLORIDA
BY ITS BOARD OF COUNTY
COMMISSIONERS

SHARON R. BOCK,
CLERK & COMPTROLLER

BY: 
COUNTY ATTORNEY

BY: 
DEPUTY CLERK



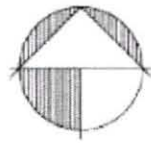
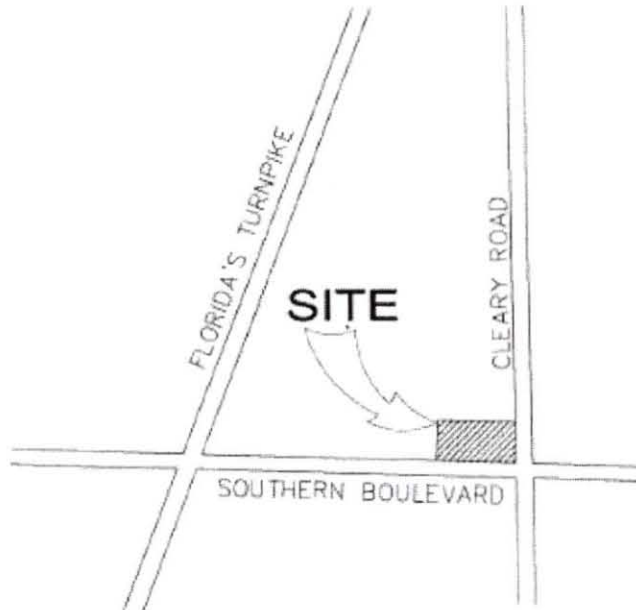
EXHIBIT A

LEGAL DESCRIPTION

DESCRIPTION:

A PARCEL OF LAND LYING IN TRACT 37, BLOCK 6, THE PALM BEACH FARMS COMPANY PLAT NO. 3, RECORDED IN PLAT BOOK 2 AT PAGE 46, IN SECTION 33, TOWNSHIP 43 SOUTH, RANGE 42 EAST, PALM BEACH COUNTY, FLORIDA AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS: COMMENCING AT THE NORTHEAST CORNER OF SAID TRACT 37, THENCE SOUTH $00^{\circ}58'00''$ EAST ALONG THE EAST LINE OF SAID TRACT 37, A DISTANCE OF 409.70 FEET; THENCE NORTH $89^{\circ}22'31''$ WEST, A DISTANCE OF 15.00 FEET TO THE POINT OF BEGINNING OF THE HEREIN DESCRIBED PARCEL; THENCE SOUTH $00^{\circ}58'00''$ EAST ALONG A LINE 15.00 FEET WEST OF AND PARALLEL TO THE SAID EAST LINE OF TRACT 37, A DISTANCE OF 149.17 FEET; THENCE SOUTH $45^{\circ}16'37''$ WEST ALONG THE NORTH RIGHT OF WAY LINE OF STATE ROAD 80, SECTION 93120-2544 AS LAID OUT AND IN USE AND RECORDED IN O.R.B. 14965, PAGE 1925, PALM BEACH COUNTY RECORDS, A DISTANCE OF 33.25 FEET. THENCE CONTINUE ALONG SAID STATE ROAD 80, NORTH $88^{\circ}29'03''$ WEST, A DISTANCE OF 276.24 FEET; THENCE NORTH $00^{\circ}58'00''$ WEST ALONG A LINE 315.00 FEET WEST OF AND PARALLEL TO THE SAID EAST LINE OF TRACT 37, A DISTANCE OF 168.53 FEET; THENCE SOUTH $89^{\circ}22'31''$ EAST, A DISTANCE OF 300.11 FEET TO THE POINT OF BEGINNING. CONTAINING 50972.21 SQUARE FEET OR 1.17 ACRES, MORE OR LESS.

EXHIBIT B
VICINITY SKETCH



LOCATION MAP
N.T.S.

EXHIBIT C

CONDITIONS OF APPROVAL

Conditional Use Class A

ALL PETITIONS

1. The approved Preliminary Site Plan is dated July, 14, 2016. Modifications to the Development Order inconsistent with the Conditions of Approval, or changes to the uses or site design beyond the authority of the Development Review Officer as established in the Unified Land Development Code, must be approved by the Board of County Commissioners or the Zoning Commission. (ONGOING: ZONING - Zoning)

2. In the event of the future taking of a portion of the Subject Property of this Application for the widening of Southern Boulevard/SR 80 to the ultimate Right-of-Way, the Property Owner is not entitled to utilize any provision of the Unified Land Development Code (ULDC) that would allow for a continued non-conforming use. In the event of such taking, the Property shall be redeveloped in accordance with the applicable requirements of the ULDC or code in effect at the time of taking, as applicable. (ONGOING: ZONING - Zoning)

ARCHITECTURAL REVIEW

1. At time of submittal for Final Approval by the Development Review Officer (DRO), the Final Architectural Elevations shall be submitted for final review and approval by the Zoning Division. Architectural Elevations shall comply with the standards indicated in Article 5.C of the Unified Land Development Code (ULDC). Development shall be consistent with the approved Architectural Elevations, the DRO approved Final Plan, all applicable Conditions of Approval, and all ULDC requirements. (DRO: ZONING - Zoning)

2. Gas station canopy shall be designed consistent with the following standards:

- a. a maximum height of twenty-five (25) feet measured from finished grade to highest point;
- b. no flat roof shall be permitted;
- c. the clearance of the canopy shall be a maximum of sixteen (16) feet, measured from finished grade to the underside of the canopy;
- d. lighting for the gas station canopy shall be flush mounted or recessed; and,
- e. a maximum of one canopy sign facing Southern Boulevard and one sign on the east side of the canopy only. (DRO/ONGOING: ZONING - Zoning)

ENGINEERING

1. In order to comply with the mandatory Traffic Performance Standards, the Property Owner shall be restricted to the following phasing schedule:

- a. No Building Permits for the site may be issued after December 31, 2017. A time extension for this condition may be approved by the County Engineer based upon an approved Traffic Study which complies with Mandatory Traffic Performance Standards in place at the time of the request. This extension request shall be made pursuant to the requirements of Art. 2.E of the Unified Land Development Code. (DATE: MONITORING - Engineering)

2. Prior to the issuance of the first building permit, the Property Owner shall configure the property into a legal lot of record in accordance with provisions of Article 11 of the Unified Land Development Code. (BLDGPM: MONITORING - Engineering)

3. The Project will be restricted to right in, right out only at the Cleary Road access. (ONGOING: ENGINEERING - Engineering)

4. The Property Owner shall provide to the Palm Beach County Right of Way Acquisition Section of Roadway Production Division a road right of way deed and all associated documents as required by the County Engineer for Cleary Road, forty (40)

feet, measured from centerline of the proposed right of way on an alignment approved by the County Engineer.

All right of way deed(s) and associated documents shall be provided and approved prior to the issuance of the first building permit or within ninety (90) days of a request by the County Engineer, whichever shall occur first. Right of way conveyance shall be along the entire frontage and shall be free and clear of all encroachments and encumbrances. Property Owner shall provide Palm Beach County with sufficient documentation acceptable to the Right of Way Acquisition Section to ensure that the property is free of all encumbrances and encroachments, including a topographic survey. The Property Owner must further warrant that the property being conveyed to Palm Beach County meets all appropriate and applicable environmental agency requirements. In the event of a determination of contamination which requires remediation or clean up on the property now owned by the Property Owner, the Property Owner agrees to hold the County harmless and shall be responsible for all costs of such clean up, including but not limited to, all applicable permit fees, engineering or other expert witness fees including attorney's fees as well as the actual cost of the clean up. Thoroughfare Plan Road right of way conveyances shall be consistent with Palm Beach County's Thoroughfare Right of Way Identification Map and shall include, where appropriate as determined by the County Engineer, additional right of way for Expanded Intersections and Corner Clips. The Property Owner shall not record these required deeds or related documents. Palm Beach County will prepare a tax pro-ration. A check, made payable to the Tax Collector's Office, shall be submitted by the Property Owner for the pro-rated taxes. After final acceptance, Palm Beach County shall record all appropriate deeds and documents. (BLDGPM: MONITORING - Engineering)

5. Prior to the issuance of the first building permit, the Property Owner shall provide to Florida Department of Transportation (FDOT), by deed, additional right of way for the construction of a right turn lane on Southern Boulevard (SR 80) at the project's entrance road. This right of way shall be a minimum of 280 feet in storage length, a minimum of twelve feet in width and a taper length of 50 feet or as approved by FDOT. Additional width may be required to accommodate paved shoulders. The right of way shall continue across the project entrance and shall be free and clear of all encumbrances and encroachments. Property Owner shall provide FDOT with sufficient documentation, including, at a minimum, sketch and legal description of the area to be conveyed, copy of the site plan, a Phase I Environmental Site Assessment, status of property taxes, statement from Tax Collector of delinquent and pro-rata daily taxes, full owner name(s) of area to be conveyed and one of the following: title report, attorney's opinion of title, title commitment or title insurance policy, or as otherwise required and acceptable to FDOT. The Property Owner must warrant that the property being conveyed to FDOT meets all appropriate and applicable environmental agency requirements. In the event of a determination of contamination which requires remediation or clean up on the property now owned by the Property Owner, the Property Owner agrees to hold the County and FDOT harmless and shall be responsible for all costs of such clean up, including but not limited to, all applicable permit fees, engineering or other expert witness fees including attorney's fees as well as the actual cost of the clean up. Thoroughfare Plan Road right of way conveyances shall be consistent with Palm Beach County's Thoroughfare Right of Way Identification Map and shall include where appropriate, as determined by the County Engineer, additional right of way for Expanded Intersections and corner clips. The Property Owner shall coordinate conveyance of right of way directly with FDOT and shall provide evidence to Palm Beach County Land Development Division once conveyance has been completed. (BLDGPM: MONITORING - Engineering)

6. The Property Owner shall construct a right turn lane, east approach on Southern Boulevard (SR 80) at the project's access.

This construction shall be concurrent with the paving and drainage improvements for the site. Any and all costs associated with the construction shall be paid by the Property Owner. These costs shall include, but are not limited to, utility relocations and acquisition of any additional required right-of-way.

- a. Permits required from Palm Beach County for this construction shall be obtained prior to the issuance of the first building permit. (BLDGPMT: MONITORING - Engineering)
- b. Construction shall be completed prior to the issuance of the first Certificate of Occupancy. (BLDGPMT/CO: MONITORING - Engineering)

7. Property Owner shall construct a 6 foot wide concrete sidewalk along the west side of Cleary Road from Southern Boulevard to the north property line, or as determined by the County Engineer. Any and all costs associated with the construction shall be paid by the Property Owner. These costs shall include, but are not limited to, utility relocations and acquisition of any additional required right-of-way. These improvements shall be completed concurrently with the onsite paving and grading and shall be completed prior to the issuance of the first building permit. (BLDGPMT: MONITORING - Engineering)

8. Prior to issuance of the first Certificate of Occupancy, the Property Owner shall construct 70th Street North as a two-lane roadway section with 12-foot wide lanes to north of the proposed project's entrance, along the project's western property boundary, or as otherwise approved by the County Engineer. (BLDGPMT/CO: MONITORING - Engineering)

LANDSCAPE - PERIMETER

1. All required hedge material that is not located in the western Right of Way Landscape Buffer will be relocated elsewhere on the site, and shall be subject to the an Alternative Landscape Plan for the review and approval by the Landscape Section. (ONGOING: ZONING - Zoning)

SITE DESIGN

1. Prior to Final Approval by the Development Review Officer, the layout of the site shall be amended to show the minimum required setback for the Gas Canopy from Southern Boulevard. If the site could not be redesigned, the Property Owner may request a Type II Variance or a Waiver for the Base Building Line. (DRO: ZONING - Zoning)

USE LIMITATIONS - CONVENIENCE STORE

1. Prior to Final Approval by the Development Review Officer, the Site Plan shall be amended to indicate facilities for the provision of free air and water for customer convenience. (ONGOING: ZONING - Zoning)

COMPLIANCE

1. In Granting this Approval, the Board of County Commissioners relied upon the oral and written representations of the Property Owner/Applicant both on the record and as part of the application process. Deviations from or violation of these representations shall cause the Approval to be presented to the Board of County Commissioners for review under the Compliance Condition of this Approval. (ONGOING: ZONING - Zoning)

2. Failure to comply with any of the Conditions of Approval for the subject property at any time may result in:

- a. The Issuance of a Stop Work Order; the Issuance of a Cease and Desist Order; the Denial or Revocation of a Building Permit; the Denial or Revocation of a Certificate of Occupancy; the Denial of any other Permit, License or Approval to any developer, owner, lessee, or user of the subject property; the Revocation of any other permit, license or approval from any developer, owner, lessee, or user of the subject property; the Revocation of any concurrency; and/or
- b. The Revocation of the Official Map Amendment, Conditional Use, Requested Use, Development Order Amendment, and/or any other zoning approval; and/or
- c. A requirement of the development to conform with the standards of the Unified Land Development Code at the time of the finding of non-compliance, or the addition or modification of conditions reasonably related to the failure to comply with existing Conditions of Approval; and/or
- d. Referral to Code Enforcement; and/or
- e. Imposition of entitlement density or intensity.

Staff may be directed by the Executive Director of PZ&B or the Code Enforcement Special Master to schedule a Status Report before the body which approved the Official Zoning Map Amendment, Conditional Use, Requested Use, Development Order Amendment, and/or other zoning approval, in accordance with the provisions of Section 2.E of the ULDC, in response to any flagrant violation and/or continued violation of any Condition of Approval. (ONGOING: ZONING - Zoning)

DISCLOSURE

1. All applicable state or federal permits shall be obtained before commencement of the development authorized by this Development Permit.